

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,)
)
PLAINTIFF.)
) CASE No. 01-81028
V.)
) ARTHUR J. TARNOW
WARNER BERNARD CRIDER,) DISTRICT JUDGE
)
DEFENDANT.)

**ORDER DENYING DEFENDANT'S
MOTION TO CORRECT ORDER [D/E # 189]**

In October 2003, a jury convicted Defendant of conspiracy to possess with intent to distribute cocaine, aiding and abetting distribution of cocaine, possession with intent to distribute marijuana and felonious possession of ammunition. This Court later sentenced Defendant to concurrent terms of life, life, five and ten years.

Defendant filed an untimely Motion for Judgment Notwithstanding the Verdict based on newly discovered evidence. These issues have been subsequently addressed on direct appeal and in a ruling on his Rule 33(b)(1) motion.

This Court dismissed Defendant's Motion Notwithstanding the Verdict as untimely under FRCP 33(a)(2). The Court alternatively held:

Even if defendant's motion had been timely filed, the court would not have concluded a new trial was warranted based on any of the claims set forth in defendant's New Trial Motion.

Defendant has since filed a motion to correct the Court's June 24, 2004 Order pursuant to Federal Rule of Criminal Procedure 36 based on a clerical mistake. According to Defendant, the following sentence should not have been included in the order.

Even if defendant's motion had been timely filed, the court would not have

concluded that a new trial was warranted based on any of the claims set forth in the defendant's New Trial Motion.

This Court did not error when it included this in its June 24, 2004 Order. Moreover, Defendants' claims of relief based on newly discovered evidence have been addressed thoroughly.

IT IS ORDERED that Petitioner's Motion to Correct Order pursuant to Federal Rules of Criminal Procedure 36 is **DENIED**.

SO ORDERED.

s/Arthur J. Tarnow
Arthur J. Tarnow
United States District Judge

Dated: October 19, 2006

I hereby certify that a copy of the foregoing document was served upon counsel of record on October 19, 2006, by electronic and/or ordinary mail.

s/Theresa E. Taylor
Case Manager